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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/083,601	05/22/1998	CHRISTOPH E. SCHEURICH	INTL0045USP5	4253

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TIMOTHY N. TROP, REG. NO 28994
TROP , PRUNER & HU, P.C.
8554 KATY FREEWAY, STE 100
HOUSTON, TX 77024

EXAMINER	
AN, SHAWN S	

ART UNIT	PAPER NUMBER
2613	

DATE MAILED: 02/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/083,601	SCHEURICH ET AL.	
	Examiner	Art Unit	
	Shawn S. An	2613	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *05 May 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *39-56* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *39-56* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Remarks

1. Applicant's remarks as filed on 5/5/05 have been fully considered but they are not persuasive.

The Applicants present arguments of which the prior art references fail to teach or suggest:

A) receiving in a driver program a first request and a second request as recited in claims 39, 45, and 51;

B) a *prima facie case of obviousness* for dependent claims 40 and 52;

C) specific claim limitations and a *prima facie case of obviousness* for dependent claims 42, 48, and 54 (also challenges Examiner's official notice); and

D) specific claim limitations and a *prima facie case of obviousness* for dependent claims 44, 50, and 56.

However, after careful scrutiny of the cited prior art references, the Examiner must respectively disagree, and maintain the grounds of rejection for the reasons that follow.

In response to argument A), Thro et al discloses substantially all of the claimed limitations with the exception of *a driver* program.

Even though Thro's program does not specifically include the driver program, it is conventionally well known for programs associated with such as Windows XP and/or CD games inherently possess or need complementary driver program for the program to work successively. In other words, many programs associated with a computer can't execute operations without the aid of the proper/corresponding driver program.

In response to argument B), Thro et al does not particularly disclose the driver program or the processor to intermittingly check the available bandwidth and determine whether to comply with the second request (resolution) to accommodate changes in the bandwidth.

However, Thro et al teaches receiving video information intermittingly from each selected video device, (col. 10, lines 47-49), and checking the available bandwidth and determining whether to comply with the second request (resolution) to accommodate changes in the bandwidth (col. 4, lines 3-41). Note: the higher the transmission frame rate, the lower the resolution.

Since Thro et al's program have been discussed with respect to complying with the first request (priority, frame rate) and based on the evaluation of the available bandwidth, selectively not complying with the second request (secondary priority, resolution) and Thro et al teaches receiving video information intermittingly, and checking the available bandwidth and determining whether to comply with the second request (resolution) to accommodate changes in the bandwidth, and also incorporating the conventionally well known driver program as discussed above, it would have been certainly considered obvious to a person of ordinary skill in the relevant art employing a driver program and Thro et al's teachings as above so that the driver program or the processor intermittingly checks the available bandwidth and determines whether to comply with the second request (resolution) to accommodate changes in the bandwidth to ensure that all of the transmitted video data does not exceed the maximum capacity of the bandwidth of the communication resource.

In response to argument C), Thro et al discloses progressively using the bus (interface) requests to request more bandwidth (205, inherency emphasized, depends on the (amount) data transfer rate), and submitting the communication requests (Fig. 3, 305; col. 4, lines 3-23).

Thro et al does not specifically disclose submitting the communication requests for (larger) bandwidths until the bus interface denies one of the communication requests.

However, the Examiner has taken official notice that it is well known in a communication system (software) to deny the communication requests based on the bandwidth constraints (e.g. system (program) message).

Furthermore, Arango (5,732,078) teaches on-demand bandwidth service comprising communication system (Figs. 6 and 8) may not having the sufficient

bandwidth (constraints), and having an option of denying (rejects) the communication requests (a) (col. 11, lines 57-67; col. 12, lines 1-14).

Therefore, it would have been considered obvious to a person of ordinary skill in the relevant art employing Thro et al's communication system to incorporate Arango's teachings so as to deny/refuse one of the communication requests for larger bandwidth based on the bandwidth constraints to ensure that all of the transmitted video data does not exceed the maximum capacity of the bandwidth of the communication resource.

In response to argument D), Thro et al does not specifically disclose adjusting the resolution based at least in part on a determination of a scaling capability of the camera.

However, the Examiner has taken official notice that a camera comprising a scaling capability is conventionally well known in the art.

Furthermore, Masamine et al (JP; 10-070641) teaches adjusting resolution based at least in part on a determination of a scaling (display) capability of the camera (abs.).

Therefore, it would have been considered obvious to a person of ordinary skill in the relevant art employing Thro et al's communication system to incorporate Masamine et al's teachings so as to adjust the resolution based at least in part on a determination of the scaling capability of the camera so as to ensure all of the transmitted video data meets the client's expectations, and does not exceed the maximum capacity of the bandwidth of the communication resource.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this

application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 39, 41, 43, 45, 47, 49, 51, 53, and 55 are rejected under 35 U.S.C. 102(e) as being anticipated by Thro et al (6,037,991) as previously discussed in the last Office action as filed on 2/3/05.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 40, 42, 44, 46, 48, 50, 52, 54, and 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thro et al (6,037,991) as previously discussed in the last Office action as filed on 2/3/05.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

A) Watanabe et al (5,978,020), Image pickup system adaptable to computer processing power and/or display.

7. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to *Shawn S. An* whose telephone number is 571-272-7324.

8. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SHAWN AN
PRIMARY EXAMINER

2/17/06